

PUBLIC SERVICE COMMISSION OF WISCONSIN

Quadrennial Planning Process I

5-GF-191

Renewable Energy Funding

FINAL DECISION

This is the Final Decision acknowledging Chicago Bridge and Iron's (CB&I) non-compliance with certain provisions of the Commission's orders relating to renewable spending and determining how the cost overruns in the Focus on Energy (Focus) residential prescriptive renewable program shall be covered.

Background

On April 26, 2012, the Commission issued an Order in docket 5-GF-191 that required that the annual renewable energy incentive level for 2012, 2013, and 2014 not exceed \$10 million in a given year. ([PSC REF#: 163778](#).) In that Order and a subsequent Order dated September 26, 2013, the Commission set forth specific criteria for the program administrator to follow in allocating renewable energy incentives. ([PSC REF#: 191060](#).) The Commission was informed in a memorandum dated December 3, 2014 ([PSC REF#: 226037](#)), that the program administrator expects that renewable spending will not be in compliance with several of the directives.

One of several renewable energy program requirements in the 2012 Order for program years 2013 and 2014, was to allocate 75 percent of total incentives to Group 1 technologies (biomass, biogas, and geothermal) and 25 percent to Group 2 technologies (solar photovoltaic (PV), solar thermal, and wind). That Order also stipulated that renewable energy incentive funding is contingent upon Focus maintaining an overall benefit-to-cost ratio of at least 2.3 (inclusive of

renewables) and that the inclusion of renewable energy technology incentives cannot reduce energy savings by more than 7.5 percent in comparison to an efficiency-only Focus program.

In June 2013, CB&I provided the Commission a memorandum that requested clarification of particular issues in the Order dated April 26, 2012. As a result, the Commission issued an Order on September 26, 2013, to clarify and modify the issues in question. ([PSC REF#: 191060.](#)) The Commission ordered, in relevant part:

4. The 75/25 percent split between Group 1 and Group 2 technologies shall be maintained on an annual basis;
5. The 75/25 split between Group 1 and Group 2 technologies shall be maintained within a range of plus or minus 5 percent;
6. Renewable energy incentives paid out shall be used to determine whether the spending split between Group 1 and Group 2 technologies is achieved; and
9. The program administrator shall take steps necessary to ensure that the Commission's Order of April 26, 2012, as clarified and modified by this Order, is met.

In order to facilitate the 75/25 split between Group 1 and Group 2 technologies, CB&I allocated \$450,000 in both 2013 and 2014 for prescriptive solar photovoltaic (PV) projects in the residential and small commercial sectors. In late October, CB&I informed Commission staff that the program had exceeded its budget for prescriptive solar by at least \$200,000 and possibly as much as \$300,000. At the same time, CB&I learned that two Group 1 projects planned for 2014 would not be completed by the end of the year. As a result, CB&I will not be in compliance with the 75/25 Group 1 and Group 2 technology split in 2014.

The Commission discussed several alternatives for funding the estimated cost overrun of the prescriptive solar PV program at its open meeting of December 12, 2014.

Findings of Fact

1. It is reasonable and in the public interest to fund any prescriptive renewable incentive cost overruns with 2014 administrative carryover dollars.
2. It is reasonable to require that any unspent 2014 Renewable Energy Competitive Incentive Program (RECIP) dollars be spent on Group 1 renewable energy projects in 2015.

Conclusions of Law

1. The Commission has jurisdiction under Wis. Stat. §§ 196.02, 196.374, and 196.395, and Wis. Code ch. PSC 137 to set and revise budgets for the Focus renewable energy programs.

Discussion

In 2014, CB&I will be in non-compliance with certain provisions of the Commission's orders relating to renewable spending. CB&I and its implementers have promised renewable incentives to members of the Wisconsin public for which they did not have funding, significantly exceeding the parameters set forth in two prior Commission orders. Such practices potentially place the Commission and Focus in the difficult position of having to choose between removing funding from other programs or failing to pay incentives that were promised by representatives of Focus. CB&I must implement better management strategies to ensure that the program is not placed in similar situations moving forward.

As one alternative, CB&I proposes to move money from another renewable program, RECIP, to the prescriptive solar program. This proposal would have a positive effect of preventing the shift of energy efficiency program funds to renewable programs, since energy efficiency programs are more cost-effective.

Fortunately, in this instance, CB&I is not expected to use its entire administrative budget in 2014. The Commission finds it in the public interest that the administrative carryover funds from 2014 shall be used to meet the prescriptive solar PV cost overruns resulting from the non-compliance. Use of 2014 administrative carryover funds ensures that renewable offerings in 2015 are not impacted by the 2014 residential solar PV cost overruns. Use of the 2014 administrative carryover funds also recognizes that the program administrator and program implementer are responsible for ensuring that Commission orders are met.

The Commission further finds it reasonable and in the public interest that any unspent RECIP dollars remaining in 2014 shall be spent on incentives in 2015 for Group 1 technologies (biomass, biogas, and geothermal). This will ensure that these dollars will be used for their intended purpose.

Order

1. Focus 2014 administrative carryover dollars shall be used to meet the prescriptive solar PV cost overruns.

2. Any unspent RECIP dollars remaining in 2014 shall be spent on incentives in 2015 for Group 1 technologies (biomass, biogas, and geothermal).

Dated at Madison, Wisconsin, this 13th day of January, 2015.

By the Commission:

A handwritten signature in black ink, reading "Sandra J. Paske". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Sandra J. Paske
Secretary to the Commission

SJP:JS:jlt:DL: 00952251

See attached Notice of Rights

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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.¹ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

¹ See *State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.